



AUSTRALIAN CAPITAL TERRITORY REMUNERATION TRIBUNAL

Statement Number 104

Full-time Holders of Public Office

Jurisdiction

Paragraph 10 (1) of the *Remuneration Tribunal Act 1995* requires the Tribunal to inquire into, and determine, remuneration and allowances to be paid, and other entitlements to be granted to persons appointed to certain Full-time Public Offices.

The Tribunal last reviewed remuneration, allowances and other entitlements for Full-time Holders of Public Office in June 2001, and subsequently issued Determination Number 85, dated 8 June 2001. Since then, the Tribunal has reviewed the remuneration of the Community Advocate and the Community and Health Complaints Commissioner, issuing Determination Number 91 dated 13 September 2001.

This latest review, which sought submissions from interested parties, was advertised in the press on 9 and 13 March 2002.

Tribunal Consideration

Submissions were received from the Chief Minister on behalf of the Government, the Occupational Health and Safety Commissioner and the President of the Administrative Appeals Tribunal.

Remuneration

Occupational Health and Safety Commissioner

The Tribunal noted the submission from the Commissioner which requested that the Tribunal review the remuneration for the position as there was a considerable difference between the expected level of responsibility of the position when it was established and the current situation. Based on the Commissioner's submission and an independent consultant's work value assessment the Tribunal has determined an increase greater than that provided to the other Office Holders.

President of the Administrative Appeals Tribunal

In line with past practise and due the President's role as a special Magistrate, the Tribunal has determined an increase in salary in line with that granted to Magistrates in November 2001.

The Tribunal has decided to apply the same increase as determined for Chief Executives and Executives in Determination 103 to all other office holders covered by this determination, with a date of effect for all offices of 1 July 2002.

There is one exception. The President of the Administrative Appeals Tribunal has been granted an increase, in line with the increase granted at the end of last year to Magistrates. The salary for this position is more appropriately aligned with the Judiciary than to Executives in the ACT Public Service. The Tribunal has previously determined that the level of increase granted to Magistrates should flow on to the President of the Administrative Appeals Tribunal.

Other Entitlements

Provision of a Motor Vehicle

The President of the Administrative Appeals Tribunal requested the Tribunal set his motor vehicle entitlement at the same level as applies to a Magistrate. In considering this issue the Tribunal noted that while it has equated the remuneration with a Magistrate it has always set the other entitlements as the same as that applying to the other Full-time Holders of Public Office. The Tribunal has decided that this should continue to be the case.

Private Telephone Accounts

While no one has raised this entitlement as an issue for Full-time Holders of Public Office the entitlement is the same as that applying to Executives and therefore the Tribunal has applied the same changes as discussed in Statement 103.



**AUSTRALIAN CAPITAL TERRITORY
REMUNERATION TRIBUNAL**

Determination Number 104

Full-time Holders of Public Office

Pursuant to paragraph 10 (1) of the *Remuneration Tribunal Act 1995* the Remuneration Tribunal has inquired into the remuneration and allowances to be paid, and other entitlements to persons appointed to certain full-time public offices.

This Determination shall take effect from 1 July 2002.

Bill Lawrence MBE
Chair

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May 2002

Ken Searson
Member

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**AUSTRALIAN CAPITAL TERRITORY
REMUNERATION TRIBUNAL**

Determination Number 104

Full-time Holders of Public Office

The Tribunal determines as follows:

1. Remuneration

1.1 With effect from 1 July 2002 a person holding an office shown in column 1 of the following table shall be entitled to the rate of remuneration specified in column 2: -

Column 1 Office	Column 2 Remuneration (per annum)
Director of Public Prosecutions	\$199,571
Auditor General	\$182,771
Director, Canberra Institute of Technology	\$157,780
Chief Executive Officer, Legal Aid Commission (ACT)	\$122,055
Community Advocate	\$118,131
Electoral Commissioner	\$110,181
Clerk of the Legislative Assembly	\$110,181
Discrimination Commissioner	\$110,181
Community and Health Complaints Commissioner	\$110,181
Occupational Health and Safety Commissioner	\$110,181
Fire Commissioner	\$93,537
Assistant Executive Officer, Legal Aid Commission (ACT)	\$91,152
President of the Administrative Appeals Tribunal	\$161,978

2. Employer Provided Benefits

2.1 Except in circumstances covered by section 11 of the *Remuneration Tribunal Act 1995* (that is, where the instrument by which the person was appointed, engaged, authorised or requested to perform the functions and duties of the office or appointment specifies otherwise), a person holding an office mentioned in the table in clause 1 above shall be entitled to the various employer provided benefits or, where applicable, the relevant cash equivalents of the benefits, as shown in Schedule A.

3. Salary Packaging Scheme

3.1 Subject to the following conditions, a person holding an office mentioned in the table in clause 1 above may elect to take remuneration shown in the table in clause 1 above as salary or take a combination of salary and other benefits best suited to his or her personal needs and preferences.

3.2 The scheme is to be consistent with taxation laws and guidelines applicable to salary packaging schemes, issued by the Australian Taxation Office and policy and procedure guidelines on salary packaging issued by the Commissioner for Public Administration from time to time.

3.3 The scheme shall be operated and administered so that there will be no additional cost to the ACT Government. In particular, any fringe benefits tax associated with the provision of a benefit is to be included in the salary package.

3.4 The salary for superannuation purposes of each person holding a Full-time Public Office is unaffected by participation in the salary packaging scheme.

3.5 No more than 50% of the relevant remuneration shown in Schedule A is to be taken as benefits and related costs such as fringe benefits tax.

3.6 The benefits available to be included in a salary package shall be decided by the Commissioner for Public Administration from time to time, or when there are changes to the taxation treatment of the benefits.

4. Relocation Allowance

4.1 Where a person holding an office mentioned in the table in clause 1 above is relocated from a residence outside the ACT, as a result of a fixed term appointment or engagement, he or she shall be entitled to be reimbursed the actual, receipted, reasonable costs of relocating his or her residence to Canberra subject to the following conditions.

4.2 The maximum amount payable in total under this provision shall not exceed \$35,000, unless there are exceptional circumstances agreed to by the Commissioner for Public Administration.

4.3 Reimbursement may be made in respect of: -

- (a) packing of personal effects and furniture belonging to the person and his or her partners;
- (b) necessary storage of personal effects and furniture;
- (c) removal costs and associated insurance of personal effects and furniture;
- (d) unpacking of personal effects and furniture;
- (e) costs of travel, accommodation and meals between the former location and the ACT;
- (f) temporary accommodation costs at the former location and in the ACT subject to a maximum period in all of six months, or, in exceptional circumstances, nine months with the approval of the Commissioner for Public Administration;
- (g) costs of disconnection and reconnection of utilities;
- (h) costs of stamp duty, and legal and professional services associated with the sale of the residence at the former location and the purchase of a residence or lease on a block of land in the ACT; and
- (i) subject to the approval of the Commissioner for Public Administration, any other reasonable expenses necessarily incurred in relocating to the ACT.

4.4 This entitlement does not apply to any expenses incurred at the conclusion of appointment or engagement.

5. Terms and Conditions of Employment for the Auditor-General

5.1 Except in circumstances covered by section 11 of the *Remuneration Tribunal Act 1995*, the Auditor-General shall be entitled to the same terms and conditions of employment as a Chief Executive employed under section 28 of the *Public Sector Management Act 1994*.

6. Revocation of Previous Determinations

6.1 Determination 85, dated 8 June 2001, and Determination 91, dated 13 September 2001 are revoked.

Employer Provided Benefits - Full-Time Statutory Office Holders

Benefit	Annual Cash Payment or Cash Payment In Lieu of Benefit
Employer's Superannuation Contribution	As set out in clause 2 of this schedule
Use of Government leased motor vehicle	As set out in clause 4 of this schedule
Parking	\$1,000
Accompanied travel	\$1,000
Private telephone accounts	To the value of standard Telstra telephone rental and 200 untimed local calls
Fringe Benefits Tax allowance	\$2,000

Conditions**1. General**

1.1 The value of the remuneration component and the employer provided benefits (EPBs) shall be fixed and non-transferable to other components of the total remuneration package.

1.2 An office holder shall be entitled to the EPBs, or their cash equivalent (except the employer's contribution to superannuation and the FBT except in accordance with clause 3.2). Each EPB shall be separate, fixed and shall not be transferable so as to increase or decrease any other EPB.

2. Employer's Superannuation Contribution

2.1 The value of the employer's superannuation contribution shall not be paid in cash to the office holder.

2.2 Any EPB taken in cash shall not increase the remuneration component for salary purposes, as set out in column 2 of the table in clause 1 of this Determination.

2.3 In the case of an office holder who is a member of the Commonwealth Superannuation Scheme (CSS) or the Public Sector Superannuation Scheme (PSS): -

- (a) the employer shall continue to meet its requirements under the *Superannuation Act 1976* (C'wlth) and the *Superannuation Act 1990* (C'wlth) as they apply to those persons who are contributory members of the CSS and PSS established under those Acts; and
- (b) for the purposes of calculating the entitlements component of the total remuneration package, the value of the employer's superannuation contribution shall be notionally deemed to be 16% of the remuneration component.

2.4 In the case of an office holder who is not a member of the CSS or PSS, or in the case of an office holder who became ineligible to remain as a contributory member of the PSS, by reason of having reached his or her reasonable benefit limit: -

- (a) the value of the employer's superannuation contribution shall be 16% of the remuneration component; and
- (b) the employer shall contribute an amount equal to this on behalf of the office holder to an agreed superannuation fund nominated by the office holder.

2.5 In respect of the current occupant of the office of Auditor-General, the value of the employer's superannuation contribution shall be 22% of the remuneration component. This clause shall have effect from 24 April 1998.

3. **Elections - Employer Provided Benefits (EPBs)**

3.1 Prior to signing the contract of employment, an office holder shall elect which of the EPBs he or she wishes to retain or to be paid in cash.

3.2 The amount of the Fringe Benefits Tax Allowance payable to the office holder will be the amount remaining after the employer's liability for fringe benefits tax is calculated, as required under the *Fringe Benefits Tax Assessment Act 1986*.

3.3 If the liability for fringe benefits tax exceeds the sum of \$2,000 the office holder shall not be required to pay the excess to the employer.

3.4 An office holder's right to take an annual EPB (or cash in lieu) shall be reduced proportionally where the relevant employment comprises only part of a financial year.

3.5 Where an office holder elects to take an EPB in cash the total value of the elected EPB shall be paid to the office holder in equal fortnightly instalments.

4. **Motor Vehicle and Parking**

4.1 Where an office holder elects to retain the EPB of the use of a government leased motor vehicle the vehicle shall be provided on the same basis as motor vehicles provided to Executives. The level of vehicle entitlement shall be on the same basis as the notional package value set out in subclause 4.4 of Schedule A.

4.2 Notwithstanding subclause 4.1 vehicles provided under this clause shall be Australian made, except for those vehicles up to and including 1.8 litre engine capacity where no limitations apply in relation to country of manufacture.

4.3 Where an office holder elects to retain the EPB of the use of a government leased motor vehicle the office holder cannot elect to take the annual cash payment in lieu of the parking benefit, and the employer shall provide the office holder with parking for the vehicle.

4.4 For the purposes of calculating the value of the total remuneration package the notional values are set out in the table below:

4.5 Where an office holder elects to take the cash benefit instead of the motor vehicle, the cash benefit shall be 75% of the notional value, as set out in the table below:

Office Holder	Total Remuneration Package Value	Cash in Lieu Value
Office holders unless otherwise specified (entitlement equivalent to Executive level 1.3)	\$15,000	\$11,250
Director of the Canberra Institute of Technology President of the Administrative Appeals Tribunal (entitlement equivalent to Executive level 2.6)	\$15,500	\$11,625
Director of Public Prosecutions Auditor-General (entitlement equivalent to Executive level 3.7)	\$17,000	\$12,750

5. **Accompanied Travel Entitlement**

5.1 An office holder may nominate a person to accompany the office holder while the office holder is travelling outside Canberra.

5.2 Where an office holder elects to retain the EPB of accompanied travel the employer shall provide the benefit up to the value of \$1,000 each year upon application being made, provided that the nominee is accompanying the office holder and the office holder is travelling on official business.

5.3 For the purposes of this clause reimbursement may be made for the return fares in the same class of travel as that of the office holder, and the reasonable additional cost of accommodation expenses associated with that travel up to the allowable benefit of \$1,000. The benefit may be used on one or more occasions each year (subject to the value of the benefit not exceeding \$1,000).

6. **Private Telephone Accounts**

6.1 Where an office holder elects to retain the EPB of a personal telephone account, the office holder must provide to the employer a copy of, or copies, of the relevant paid account for reimbursement.

6.2 The account may be for a telephone(s) in the home of the office holder, or mobile telephones, and the account may be in the name of the office holder, or the spouse of the office holder, or a member of the office holder's immediate family.

6.3 The EPB shall comprise the telephone rental and up to 200 local calls (or equivalent).

7. **Definitions**

In this schedule: -

"Agreed superannuation fund" means a fund complying with the requirements of the *Income Tax Assessment Act 1936* (C'wlth) and complying with the *Superannuation Industry (Supervision) Act 1993* (Cwlth) where relevant

"Employer" means the Australian Capital Territory and includes any person authorised to act on behalf of the Australian Capital Territory in relation to any act, approval or direction to be done, granted or exercised, by or on behalf of the Australian Capital Territory under contract

"Fringe Benefits Tax" means the tax assessed under the *Fringe Benefits Tax Assessment Act 1986*